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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

RANJIT SODHI,

Case No.: CV09-08927-GHK-VBKx

Plaintiff,

**REPORT OF PARTIES' PLANNING
MEETING**

vs.

Conference: April 19, 2010 1:30PM

GRASSHOPPER HOUSE LLC, *et al.*,

Defendants.

Pursuant to this Court's Order, the parties jointly report the following:

1. Subject matter jurisdiction.

This Court has subject matter jurisdiction because it raises a federal question. Namely, whether not violations of the Fair Labor Standards Act (29 U.S.C. § 201 *et seq*) were committed. Plaintiff contends that this Court has supplemental jurisdiction over all the State law claims because they are part of the same case and controversy as the federal claim. For instance, there are claims for missed meal periods under California law. However, the contention is that Plaintiffs were actually working during their meal periods, so this time must be counted as hours worked. Thus, a violation of missing the meal break would also mean that 30 more minutes of work was

1 performed and thus 30 more minutes would be paid under the FLSA claim. It would not be
 2 possible to adjudicate one claim without the other. That is, if a Court determined that the Plaintiffs
 3 did not work the 30 minutes as part of their FLSA claim, it would automatically mean that they did
 4 receive a 30 minute break, which would defeat their California claim. In addition, the California
 5 Business and Profession claim includes claims for violations of the FLSA. As such, the California
 6 causes of action make up the same case or controversy as the federal claim. 28 U.S.C. § 1337(a)

7 **2. Plaintiff's contentions**

8 Defendant Grasshopper House LLC is better known by its trade name of "Passages."
 9 Passages is a premium addiction cure center located in Malibu, California. The putative class
 10 members worked at Passages as nurses, attendants, and other healthcare professionals. The
 11 employees were paid on an hourly basis and were paid overtime based on a company policy.

12 There are really two main factual/legal issues: (1) whether overtime was properly paid and
 13 (2) whether meal breaks were actually taken and/or improperly deducted from the number of hours
 14 worked. In terms of overtime, this case presents a fairly rare case where federal law actually
 15 provides more overtime protection to the employees than California law. For healthcare
 16 institutions, California has a special overtime provision that allows an employer to pay its
 17 employees overtime only when more than 80 hours in a two-week period are worked. That is, for
 18 healthcare institutions, there is no requirement of overtime past 8 hours in a day, if they are
 19 operating on the two-week period computation. Defendant paid its employees according to this
 20 plan up until September of 2009. Federal law has a similar provision that allows healthcare
 21 institutions to pay its employees overtime after 80 hours in a two-week period. However, unlike
 22 California law, federal law only allows this if the employees are also paid overtime after 8 hours in
 23 a day. The employees generally worked 10-12 hours shifts and did not receive overtime after 8
 24 hours in a day. Under this theory, Plaintiffs seek the additional overtime compensation due under
 25 federal law.

26 Plaintiffs also contend that they were improperly deducted for meal breaks. That is, they
 27 contend that the company had a policy of automatically deducting 30 minutes from an employee's
 28

1 time clock even if no break was taken. This caused two violations simultaneously. Namely, the
 2 employee should have been paid for the 30 minutes of work. As the employees worked more than 8
 3 hours in a day, this extra 30 minutes should have been paid as overtime, as required by the FLSA.
 4 It also triggers a penalty for not receiving a meal break. That is, California law requires that an
 5 employee receive an additional hour of pay for each day in which a meal break is not taken.
 6 Plaintiff contends that this additional pay must be included in computing the regular rate of pay for
 7 purposes of overtime.

8 Plaintiff also contends that adequate rest breaks were not taken. Similar to above, if
 9 additional compensation for these rest breaks is due, Plaintiff contends that it must be included in
 10 the computation of the regular rate of pay under which the FLSA overtime is computed.

11 Finally, Plaintiff is pursuing civil penalties under the Private Attorney General Act of 2004.
 12 These claims are brought as a proxy agent for the State of California and 75% of all penalties
 13 recovered is paid to the State and the remaining 25% paid to Ms. Sodhi. These claims are for civil
 14 penalties for the same violations described above. That is, when an employee is not paid overtime
 15 for a given week, the State of California can sue the employer for a \$100 penalty per employee per
 16 pay period. In this case, Ms. Sodhi is acting on behalf of the State of California as a private
 17 attorney general.

18 **3. Defendant's contentions**

19 Defendants dispute all of Plaintiff's contentions.

21 **4. Amendments to pleadings**

22 Plaintiff anticipates amending her pleadings to add additional class members and bring in
 23 an additional sub-class. Plaintiff proposes that the pleadings be closed after July 2, 2010.

24 **5. Discovery**

25 Initial disclosures will be exchanged on April 23, 2010.

26 The parties propose that non-expert discovery be completed by February 4, 2011.

27 The parties propose that expert discovery be completed by March 4, 2011.

28 Plaintiff does not wish to change the discovery limitations imposed by the Rules.

1 Plaintiff does not wish to conduct discovery in phases.

2 Plaintiff will need to conduct discovery to get the time and payroll records for the class
3 members. These records are stored in electronic format and the parties will discuss and agree on a
4 format in which to produce them. Plaintiff will also need to take deposition of managers and
5 company representatives responsible ensuring that meal breaks were taken and of those responsible
6 for setting the policy for paying overtime.

7 **6. Class certification**

8 Plaintiff proposes bringing a motion for collective action certification by April 30, 2010.

9 Plaintiff propose bringing a motion for class certification by June 25, 2010. If Plaintiff
10 amends her pleadings, Plaintiff proposes bringing a motion for class certification within 90 days
11 after the amendment.

12 **7. Settlement**

13 The parties have briefly discussed settlement. The parties believe that future settlement
14 discussions may prove fruitful. The parties agree to Option 3 (private mediation). Mediation to be
15 complete by July 2, 2010.

16 **8. Trial**

17 The parties propose May 9, 2011 for the Pre-Trial Conference.

18 The parties propose June 13, 2011 for Trial.

19 Plaintiff estimates 10 days for her case-in-chief, assuming it has been certified as a class.

20 Defendants estimate 5 days for their rebuttal-in-chief.

21 The trial will be to a jury.

22 Michael Tracy will be lead trial attorney for Plaintiff.

23 Thomas Nitti will be lead trial attorney for Defendants

1 DATED: April 5, 2010

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LAW OFFICES OF MICHAEL TRACY

/s/ Michael Tracy

By:

MICHAEL TRACY, Attorney for Plaintiff
RANJIT SODHI

DATED: April 5, 2010

LAW OFFICES OF THOMAS NITTI

By:

THOMAS NITTI, Attorney for Defendants